

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CV 13

5489

IN THE MATTER OF THE COMPLAINT

Civil Action No.:

of

KEVIN TREANOR, AS OWNER OF THE
KANDI WON, A 34 FOOT, SILVERTON,
RECREATIONAL VESSEL FOR
EXONERATION FROM OR
LIMITATION OF LIABILITY,

ORDER RESTRAINING SUITS,
APPROVING PETITIONER'S
SECURITY, DIRECTING ISSUE
OF NOTICE AND THE
FILING OF CLAIMS

FEUERSTEIN, J.
BROWN, M. J. U.S. DISTRICT COURT E.D.N.Y.

Petitioner.

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OCT 10 2013

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LONG ISLAND OFFICE

A Complaint having been filed herein on October 3, 2013, by the above-named Petitioner, as owner of the KANDI WON, a 1984, 34 foot, Silverton, recreational vessel (hereinafter the "Vessel"), for Exoneration from or Limitation of Liability, pursuant to U.S. maritime law, 46 U.S.C. §§ 30501 *et seq.*, and Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure concerning any claims and/or losses arising out of an accident, which occurred on the evening of July 4, 2012, in or about the U.S. navigable waters of Oyster Bay Harbor, Long Island, State of New York, as more fully described in the Complaint;

AND, the Complaint having stated that the value of the Petitioner's interest in the Vessel did not exceed the sum of \$1,500.00, at the close of the voyage;

AND, the Petitioner has filed with the Court an *Ad Interim* Security dated September 30, 2013, for the benefit of any and all claimants, with surety, equal to the amount or value of

Petitioner's interest in the said Vessel, with interest at six percent (6%) per annum from the date hereof, executed by marine insurer Axis Insurance Company.

NOW, on motion of attorneys for Petitioner, it is hereby:

ORDERED that the above-described *Ad Interim* Security in the sum of **\$1,500.00** with interest as aforesaid, filed by Petitioner for the benefit of any and all claimant(s) as security representing the Petitioner's interest in the Vessel, be and is **hereby approved**, and

IT IS FURTHER ORDERED that the Court, only upon motion and good cause shown, shall cause appraisalment of the value of the Vessel, and may thereupon order said security increased or reduced if it finds the amount thereof insufficient or excessive, and

IT IS FURTHER ORDERED that any claimant in these proceedings may express, only upon good cause shown and by written notice filed with the Court and served upon all parties of record, its dissatisfaction with Axis Insurance Company as surety. In this event, Petitioner shall within thirty (30) days of the entry of an order by the Court concerning the surety, cause security to be posted in the form provided by Supplemental Rule F(1) of the Federal Rules of Civil Procedure and satisfactory to this Court failing which the injunction entered concurrently herewith will be vacated as to all claimants, and the Court will make such further orders as the justice of the cause may require, and

IT IS FURTHER ORDERED that a Notice shall be issued by the Clerk of this Court to all persons asserting claims or suits with respect to which the Complaint seeks Exoneration from or Limitation of Liability admonishing them to file their respective claims with the Clerk of this Court, in writing, and to serve on the attorneys for the Petitioner a copy thereof, **ON OR BEFORE THE 20th DAY OF DECEMBER, 2013**, or be defaulted; and that if any claimant desires to contest either the right to Exoneration from or the right to Limitation of Liability, such claimant shall file and serve on the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA & FRIEDMAN LLP, 630 Third Avenue, 3rd Floor, New York, New York 10017, an Answer to the Complaint on or before the said date, unless the claim has included an Answer to the Complaint, so designated, or be defaulted, and

IT IS FURTHER ORDERED that the aforesaid Notice shall be published in **NEWSDAY**, a newspaper with a general circulation including Nassau County, New York, once a week for four (4) weeks before the return date of said Notice, as provided by the aforesaid Supplemental Admiralty Rule "F" and copies of said Notice shall be mailed by Petitioner in accordance with this rule to every person known to have any claim against the Vessel or Petitioner, or to their attorneys, and

IT IS FURTHER ORDERED that the further prosecution of any and all actions, suits and proceedings already commenced and the commencement or prosecution hereafter of any and all suits, actions, or proceedings of any nature and description whatsoever in any Court of any jurisdiction, or otherwise, against the Vessel owner, insurer, and/or the Vessel, and the taking of any steps and the making of any motion in such actions, suits or proceedings except in this action, to

recover damages for or in respect to the aforesaid alleged incident in the Complaint, **be and they hereby are restrained, stayed and enjoined**, until the hearing and determination of this action, and all warrants of arrest and/or attachment issued or sought in such other suits, actions or legal proceedings be and the same are hereby dissolved and further warrants of arrest and/or attachment are hereby prohibited, and

IT IS FURTHER ORDERED that service of this Order as a Restraining Order be made through the Post Office by mailing a conformed copy hereof to the person or persons to be restrained, or to their respective attorneys.

Dated: New York, New York
October 10, 2013

s/ Sandra J. Feuerstein

U.S.D.J.